

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DONOVAN HOWARD,

Plaintiff,

USDS SDNY
DOCUMENT
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DOC #:
DATE FILED: 4/15/08

-against-

05 Civ. 7488 (LAK)

MUNICPAL CREDIT UNION, et a.,

Defendants.

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ORDER

LEWIS A. KAPLAN, *District Judge*.

In a report and recommendation dated January 24, 2008 (the “R&R”), Magistrate Judge Freeman recommended *inter alia* that the Court dismiss plaintiff’s federal claims, in the case of one of them with leave to replad, and dismiss plaintiff’s state law claims without prejudice to resiling them in state court. Objections were due on February 7, 2008.

Plaintiff did not timely file objections. By letter dated February 21, 2008, however, he requested a 60-day extension in which to do so. By order entered February 28, 2008, the Court extended his time within which to object until March 21, 2008.

Plaintiff failed to file objections by March 21, 2008. Accordingly, on March 25, 2008, the Court entered an order adopting the R&R and granting plaintiff leave, until April 5, 2008, to amend solely for the purpose of attempting to state a claim under 15 U.S.C. § 1681s-2(b) and reasserting, if he were so advised, his state law claims. Plaintiff failed to amend by April 5. The Clerk therefore quite properly entered judgment of dismissal on April 11, 2008.

The Court now is in receipt of a document, postmarked April 10, 2008 but first received by the Pro Se Office (to which it was addressed) on April 14, 2008, entitled “Plaintiff’s Affidavit in Objection & Opposition to Judge Kaplan’s Racially Divisive & Prejudicial Electronically Filed Order Dated 3-25-08 That Was Mailed to P 14 Days Late & Precluded P From A Timely Response to Halt Dismissal.” Plaintiff there requests a 60-day extension of his time to submit objections to the R&R.

Plaintiff’s request for an extension of time within which to object to the R&R is

denied. Even accepting plaintiff's assertion that he did not receive the R&R until February 18, 2008, his time within which to file objections, as extended, did not expire until March 21, 2008, over a month later. In any case, the Court already has adopted the R&R, so the matter of objections to it is moot.

Plaintiff claims also that he did not receive the March 25 order until April 8 after the time prescribed for the filing of any amendment to the complaint. Accordingly, the Court vacates the judgment of dismissal and affords plaintiff a further opportunity to amend, solely to the extent set forth in the March 25, 2008 order, provided that any amendment is filed no later than May 7, 2008. In the event no amended complaint is filed by that date, the Clerk shall reenter the judgment of dismissal.

SO ORDERED.

Dated: April 21, 2008



Lewis A. Kaplan
United States District Judge

Copies mailed 4/31/08
Chambers of Judge Kaplan

✓ PPL